

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

In re: BAIR HUGGER FORCED AIR
WARMING DEVICES PRODUCTS
LIABILITY LITIGATION

MDL No. 15-2666 (JNE/FLN)

PRETRIAL ORDER NO. 24:
Second Bellwether Selection

This Document Relates to All Actions

Eight more Bellwethers will be selected:

1. The Court randomly selected 100 open cases (“Cases”) from the *Bair Hugger* MDL, 15-2666. Ex. A. These Cases were filed in, removed to, or transferred to the MDL by October 1, 2017.
2. By February 9, 2018, Plaintiffs must do three things for each Case. Defendants may move to dismiss with prejudice any Case for which, by the deadline, Plaintiffs have not done so.
 - a. Plaintiffs must ascertain that a Bair Hugger was used in the surgery at issue (“Bair Hugger Use”), to the best of their ability.
 - b. If Plaintiffs have evidence of Bair Hugger Use, they must produce it to Defendants.
 - c. Plaintiffs must serve a complete, verified Plaintiff Fact Sheet. *See* Pretrial Order No. 14 ¶¶ 2-4, Dkt. No. 117.
3. By February 16, 2018, Defendants must challenge Plaintiffs as to any disputes about Bair Hugger Use in the Cases. These challenges must include any relevant

documents Defendants have.

4. By March 12, 2018, Plaintiffs and Defendants must each list sixteen Cases to the Court. They may not list Bellwether-inappropriate Cases. From these lists, the Court will pick twelve potential Bellwethers on March 13, 2018.

5. By March 20, 2018, Plaintiffs and Defendants may each strike two of the Court's picks by listing strikes to the Court. The remaining picks are Bellwethers.

6. By March 27, 2018, Plaintiffs and Defendants must propose to the Court, jointly or separately:

- a. A Bellwether sequence and
- b. A schedule for the first two Bellwethers through their ready-for-trial date.

IT IS SO ORDERED.

Dated: January 19, 2018

s/ Joan N. Erickson

The Honorable Joan N. Erickson
United States District Judge
District of Minnesota